

**ENTERED**

October 16, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

AARON MALONE,

Plaintiff,

VS.

KRISTINE ZAMBRANO, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:19-CV-269

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION**

Before the Court is Magistrate Judge Jason Libby's Memorandum and Recommendation to Dismiss Certain Claims and to Retain Case ("M&R"). (D.E. 19). The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL 3823141, at \*1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 19). Accordingly, the Court **ORDERS** the following:

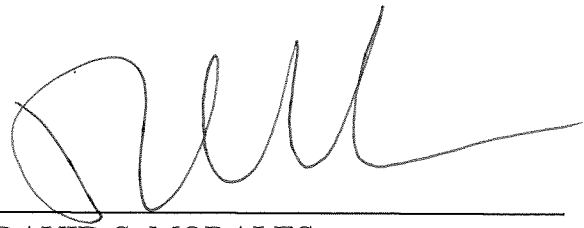
- (1) Plaintiff's claims for the denial of access to the courts, arising from conduct occurring in July and August 2018, against Sergeant Kristine Zambrano, Mailroom

Supervisor Selles (“MS Selles”), and Officer Thompson in their individual capacities are **RETAINED**.

- (2) Plaintiff’s claims for retaliation against Sergeant Zambrano, Major Gould, MS Selles, Unit Grievance Investigator Christina Rodriguez, Officer Laundry, and Officer Thompson in their individual capacities are **RETAINED**.
- (3) Plaintiff’s claims against Officer Martin, Officer Cordova, and Officer Espinoza are **DISMISSED** from this action. The Clerk of Court is **DIRECTED** to **TERMINATE** Officers Martin, Cordova, and Espinoza as parties to the case.
- (4) Plaintiff’s claims for money damages against all the individual defendants in their official capacities are **DISMISSED** as barred by the Eleventh Amendment.
- (5) Plaintiff’s claims against the Texas Department of Criminal Justice are **DISMISSED** as barred by the Eleventh Amendment;
- (6) Plaintiff’s claims for declaratory and injunctive relief against all the defendants are **DISMISSED** as rendered moot;
- (7) Plaintiff’s claims against the remaining defendants are **DISMISSED with prejudice** for failure to state a claim and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1).

*See* (D.E. 19, p. 1–2, 23).

SO ORDERED.



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DAVID S. MORALES  
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas  
October 15, 2020